

AGENDA ITEM #7

March 11, 2005

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Contra Costa County's Vessel Sanitation and Mooring Ordinance
(For Commission Information Only)

BACKGROUND:

The County has been working with Department of Boating and Waterways and with members of the boating community and the general public to establish a new ordinance regulating mooring of vessels in the County's waterways. County staff states the ordinance has been circulated to the other Delta counties as well. The ordinance has been adopted by the County and is now in place.

According to parties that participated in the County adoption process, many of the changes made at public hearings have been incorporated into the adopted legislation. In addition, the Board of Supervisors agreed to revisit the new ordinance to consider future amendments if the ordinance causes hardship to boaters.

Other Delta counties should be aware that enforcement of this ordinance might result in relocation of some vessels from the waters within Contra Costa County to other Delta locations.

The ordinance has been presented for Commission information only; if additional action is desired, the Commission should so direct staff to schedule for a future meeting.
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ORDINANCE 2005-02
VESSEL SANITATION AND MOORING

The Contra Costa County Board of Supervisors ordains as follow:

SECTION I. SUMMARY. This ordinance adds definitions pertaining to vessels, establishes regulations to control vessel sanitation and pollution, establishes vessel mooring and anchoring regulations, and establishes mooring and sanitation regulations for houseboats and liveaboards.

SECTION II. The title of Division 410 is amended to read: **Division 410 VESSELS AND WATER SAFETY**

SECTION III. Section 410-2.004 is repealed in its entirety and is replaced by new Section 410-2.004, added by this Section III, to read:

410-2.004 Definitions. Unless the context otherwise requires, the words and phrases used in this division have the meanings given them in Chapter 5 of Division 3 (Section 650 et seq.) of the California Harbors and Navigation Code. The following words have the following meanings for purposes of this division:

(a) **“Floating home”** or **“floating structure”** means a structure that has the following characteristics:

(1) It is a stationary structure in, on, or above the water that is:

(A) permanently grounded; or

(B) supported by a flotation system and held in place by piling or mooring devices; or

(C) placed on or otherwise affixed to a foundation, dock, piling, walkway, gangway, pier, barge, or other permanent structure.

(2) It is incapable of being used for self-propelled navigation.

(3) It is designed and built to be used, or is modified to be used, or is used, to serve purposes or provide services typically associated with a structure on or other improvement to real property. The term “floating home” or “floating structure” includes a structure that is used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, or similar facility or structure represented as such. Incidental or limited movement of a structure upon water or resting partially or entirely on the bottom does not preclude the structure from being classified as a floating home or floating structure for purposes of this Ordinance Code. Registration of a structure as a vessel with the California Department of Motor Vehicles does not preclude the structure from being classified as a floating home or floating structure for purposes of this Ordinance Code. A houseboat or liveaboard that is permanently moored or grounded and is incapable of self-propelled navigation is a floating home for purposes of this Ordinance Code. Floating homes and floating structures are expressly excluded from the definition of the term “vessel” provided in this section.

(b) **“Garbage”** has the meaning set forth in Health and Safety Code section 117475.

(c) **“Houseboat”** means a liveaboard that has either a pontoon or flat-bottomed hull configuration, and has a permanent enclosed superstructure with sleeping and cooking facilities.

- (d) **“Liveaboard”** means any vessel, supported by means of flotation and capable of being used for self-propelled navigation, that is used or designed to be used or fitted out to be used for human habitation.
- (e) **“Moor”** means to make fast, tie up, or otherwise secure a vessel other than by anchoring. “Moor” includes to attach to a dock, pilings, walkway, gangway, pier, or other structure, or to tie up to any natural object or feature.
- (f) **“Sewage”** has the meaning set forth in Harbors and Navigation Code section 775.5(d).
- (g) **“Shore”** means that part of the land in immediate contact with a waterway, including the area between high-tide and low-tide marks or between high-water and low-water marks.
- (h) **“To anchor”** means to secure a vessel within a waterway by dropping an anchor, anchors, or other ground tackle to the bottom of the waterway.
- (i) **“Vessel”** means every description of watercraft used or capable of being used as a means of transportation on the water, except: a seaplane on the water; or, a watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled. A “vessel” includes a barge, a dredge, a towboat and its tow, a houseboat, and a liveaboard.
- (j) **“Waterway”** means any water, lake, river, creek, canal, lagoon, bay, inlet, slough, channel, or tributary situated within the county, or any water area situated within the county providing access for vessels from one place to another. (Ord. 2005-02 § 4.)

SECTION IV. Section 410-2.006 is amended to read:

410-2.006 Prohibitions.

- (a) No person owning, possessing, or in charge of any vessel shall permit the vessel to be operated or located in violation of this division.
- (b) All houseboats and liveaboards are subject to all applicable provisions of this division and to all other applicable provisions of this Ordinance Code and state and federal law.
- (c) A floating home or floating structure is not allowed at any location in the County unless it meets all applicable zoning, building, health, sanitation, and other applicable provisions of this Ordinance Code, and meets all applicable provisions of state and federal law. (Ords. 2005-02 § 4, 69-50 §1 (part), 1969).

SECTION V. Section 410-2.012 is added to read:

410-2.012 Enforcement.

- (a) The County may enforce this division by any remedy allowed under this Ordinance Code or any other remedy allowed by law, except that violations of state or federal law incorporated into this division shall be enforced as provided for under the applicable law.
- (b) The sheriff is authorized to enforce this division.
- (c) Whenever this chapter grants a power to the sheriff, the power may be exercised by a deputy of the sheriff or by a person authorized by law, unless otherwise provided.

(d) All notices and decisions issued by the sheriff pursuant to this division will be transmitted to the registered vessel owner by first class mail and by posting at a conspicuous place on the vessel, or by personal service by the sheriff. (Ord. 2005-02 § 5.)

SECTION VI. Section 410-2.014 is added to read:

410-2.014 Vessel Removal.

(a) If the sheriff determines a vessel is moored or anchored in violation of this division, the sheriff may issue a Notice to Remove. The notice will provide a date by which the vessel's owner must remove the vessel from the waterway.

(b) If the vessel's owner does not remove the vessel or cause the vessel to be removed after receiving a Notice to Remove, the sheriff may remove and store the vessel. The vessel may be redeemed upon proof of ownership and payment of all costs incident to recovery, movement, impounding, and storage, or may be disposed of in accordance with Section 410-2.016 of this code. (Ord. 2005-02 § 6.)

SECTION VII. Section 410-2.016 is added to read:

410-2.016 Vessel Disposition.

(a) A vessel removed and stored by the sheriff may be disposed of in accordance with the provisions of Article 4 of Chapter 2 of Division 3 of the Harbors and Navigation Code (Boaters Lien Law). The owner of the vessel will be civilly liable to the County for all costs, fees, damages and expenses incurred by the County in removing, storing and selling the vessel. These costs are a lien upon the vessel and the proceeds of the sale.

(b) Wrecked and abandoned vessels are subject to disposal in accordance with Chapter 3 of Division 3 of the Harbors and Navigation Code. (Ord. 2005-02 § 7.)

SECTION VIII. Section 410-2.018 is added to read:

410-2.018 Charges. Charges imposed by the County for services under this division, including the recovery, movement, impounding, and storage of vessels, will be in accordance with the Sheriff's Department fee schedule adopted by the Board of Supervisors. (Ord. 2005-02 § 8.)

SECTION IX. Chapter 410-4 is repealed and replaced by new Chapter 410-4, added by this Section IX, to read:

Chapter 410-4 SPEED ZONES

410-4.002 Speed Designated. The areas designated in this chapter and in Harbors and Navigation Code section 655.2 are speed zones. No person shall operate any vessel, or permit it to be operated, in a speed zone at a speed in excess of five miles per hour. (Ords. 2005-02 § 9, 69-50 §1 (part), 1969).

410-4.004 Wakes. No person shall operate any vessel, or permit it to be operated, in a speed zone in such a manner that the vessel's speed creates a wake that causes or raises a white crest from the moving vessel. (Ords. 2005-02 § 9).

410-4.006 Slow area. Any area designated as a "slow area" by resolution of the board of supervisors is a speed zone. (Ords. 2005-02 § 9, 69-50 §1 (part), 1969).

410-4.008 Near vessels sixteen feet or under. The area within 100 feet of any vessel 16 feet in length or smaller, except for a personal watercraft, that is likely to be endangered by the wake of a passing vessel, is a speed zone. (Ords. 2005-02 § 9, 69-50 §1 (part), 1969).

410-4.010 Near swimming floats. The area within 200 feet of any swimming float or diving platform, except special floats used for water skiing, is a speed zone. Special skiing floats shall be clearly marked and permits issued for their establishment, and the area of their use shall be designated by the board of supervisors. (Ords. 2005-02 § 9, 69-50 §1 (part), 1969).

SECTION X. Section 410-6.018 is added to read:

410-6.018 Sanitation and Pollution. A person shall not do any of the following:

- (a) Place, deposit or dump any garbage on or adjacent to the bulkheads, docks, piers, gangways, or wharves of any waterway where the material is likely to be washed or otherwise deposited into a waterway by tides, floods, storms, waves, or accidental displacement.
- (b) Cause any mooring line, water hose, electrical cable or other service line to extend across a dock, pier, or gangway so as to create a hazardous condition that could cause accident or injury; or cause any obstacles such as ladders, tools, canvas, vessels, boat gear, or other materials or equipment to obstruct free passage along any dock, pier, or gangway; or create any other hazardous condition on a dock, pier, or gangway that could cause accident or injury.
- (c) Leave or store on any dock, pier, gangway, or wharf of a waterway any empty tanks or containers previously used for flammable or combustible liquids, unless free from explosive vapors, except that empty safety containers may be kept in storage.
- (d) Violate any of the following sanitation and pollution statutes: Fish and Game Code section 5650; Fish and Game Code section 5652; Harbors and Navigation Code section 131; Harbors and Navigation Code section 133; Harbors and Navigation Code section 780; Health and Safety Code section 5411.5; Health and Safety Code section 117480; Health and Safety Code section 117515; or any other sanitation or pollution statute. (Ord. 2005-02 § 10.)

SECTION XI. Section 410-6.020 is added to read:

410-6.020 Sunken Vessels.

- (a) Whenever a vessel is sunk in a waterway, the owner must mark the vessel immediately with a buoy or daymark during the day and with a light at night, in accordance with Title 33 Code of Federal Regulations, Part 64. The markings must be maintained until the sunken vessel or obstruction is removed. Removal of the vessel must commence immediately and be completed in a timely manner. The owner must immediately notify the sheriff of the sunken vessel and provide all other notifications required by law.
- (b) A vessel that is not properly marked, or a vessel where removal does not commence immediately and is not completed in a timely manner, is subject to removal, storage, and disposal in accordance with Section 410-2.014. (Ord. 2005-02 § 11.)

SECTION XII. Chapter 410-8 is repealed in its entirety and is replaced by new Chapter 410-8, added by this Section XII, to read:

Chapter 410-8 MOORING REGULATIONS

410-8.002 General Restriction. Except as otherwise permitted by this chapter, no vessel shall be moored, anchored, grounded, placed, or otherwise located in any waterway for a period exceeding 96 hours. (Ord. 2005-02 § 12.)

410-8.004 Mooring Locations. A vessel, other than a houseboat or liveaboard, may be moored at the following locations to the extent permitted by law:

- (a) A permitted dock.
- (b) A permitted marina, provided the vessel is moored in compliance with all applicable permit conditions imposed on the marina. (Ord. 2005-02 § 12.)

410-8.006 Houseboats and Liveaboards.

(a) A houseboat or liveaboard may be moored in a permitted marina if all of the following requirements are met:

- (1) The houseboat or liveaboard is equipped with one of the following:
 - (A) An operable Coast Guard certified marine sanitation device.
 - (B) A self-contained portable toilet or other on-board portable sewage reception system that prevents the overboard discharge of treated or untreated excrement, sewage, or other waste matter or contaminant of any kind.
 - (C) A legal connection to a permitted public sewer system.
- (2) The houseboat or liveaboard is capable of self-propelled navigation.
- (3) The houseboat or liveaboard is moored in compliance with all applicable permit conditions imposed on the marina.
- (4) The houseboat or liveaboard is moored in compliance with all applicable state and federal laws.

(b) A houseboat or liveaboard may be moored at a permitted dock to the extent permitted by law if all of the following requirements are met:

- (1) The houseboat or liveaboard is equipped with one of the following:
 - (A) An operable Coast Guard certified marine sanitation device.
 - (B) A self-contained portable toilet or other on-board portable sewage reception system that prevents the overboard discharge of treated or untreated excrement, sewage, or other waste matter or contaminant of any kind.
- (2) The houseboat or liveaboard is capable of self-propelled navigation.
- (3) The houseboat or liveaboard does not obstruct navigation.
- (4) The houseboat or liveaboard is moored in compliance with all applicable state and federal laws.

(c) A houseboat or liveaboard may be anchored in a waterway for up to 30 consecutive days requirements are met:

- (1) The houseboat or liveaboard is equipped with one of the following:
 - (A) An operable Coast Guard certified marine sanitation device.
 - (B) A self-contained portable toilet or other on-board portable sewage reception system that prevents the overboard discharge of treated or untreated excrement, sewage, or other waste matter or contaminant of any kind.

- (C) A legal connection to a permitted public sewer system.
- (2) The houseboat or liveaboard is capable of self-propelled navigation.
- (3) The houseboat or liveaboard is moored in compliance with all applicable permit conditions imposed on the marina.
- (4) The houseboat or liveaboard is moored in compliance with all applicable state and federal laws.

410-8.008 Property Owners. No person shall cause or allow a vessel to be moored to his or her property in violation of this chapter. (Ord. 2005-02 § 12.)

410-8.010 Services. No person shall furnish or supply electrical service, natural gas or fresh water, or provide a sewer connection, to any vessel moored in violation of this chapter. (Ord. 2005-02 § 12.)

410-8.012 Equipment.

(a) Any vessel moored or anchored shall be moored or anchored in such a manner to prevent breakaway resulting in sanitation damage or pollution.

(b) Mooring lines at docks and marinas shall be installed in a manner that will maintain a moored vessel within its berth and prevent the vessel from posing a safety hazard to the berth or to adjoining vessels. (Ord. 2005-02 § 12.)

410-8.014 Lights. Any vessel anchored or moored between sunset and sunrise shall display lights as prescribed by federal and state laws, rules and regulations regarding anchor lights in inland waters. (Ord. 2005-02 § 12.)

410-8.016 Buoys. No vessel may be moored at a buoy in violation of Harbors and Navigation Code section 307 or Harbors and Navigation Code section 308. (Ord. 2005-02 § 12.)